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10/019,134	12/20/2001	Axel Heinrich	CL/V-31010A	1918
31781	7590	05/18/2005	EXAMINER	
CIBA VISION CORPORATION PATENT DEPARTMENT 11460 JOHNS CREEK PARKWAY DULUTH, GA 30097-1556			SAWHNEY, HARGOBIND S	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/019,134

Applicant(s)

HEINRICH ET AL.

Examiner

Hargobind S. Sawhney

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. The amendment filed on February 28 has been entered.

#### ***Allowable Subject Matter***

2. The indicated allowability of claim 17 is withdrawn in view of the newly discovered reference(s) to Ono (Japanese Pattern No.: JP 61-261009). Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 6, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP 61-261009) hereafter referred as Ono.

Regarding claims 1 and 16, Martin et al. ('845) discloses a UV illuminating device (Figure 3) comprising:

- a ultraviolet (UV) lamp(not shown, column 8, lines 30 and 31) remotely generating radiation, and the generated radiation being routed to the clamped mold halves and polymerizable material via fiber optics (column 8, lines 55-59) capable – intended use - of being linked to one casting mould.

However, Martin et al. ('845) does not specifically teach the ultraviolet (UV) lamp being surrounded by a plurality of optical fibers.

On the other hand, Ono discloses a UV light-emitting lamp 8 including a light emitting part surrounded by fiber optics 7 (Figure 1, English translated abstract)

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the optic –bases UV light system of Martin et al. ('845) by providing optic fibers surrounding the UV lamp as taught by Ono for supplying equal share of the generated radiation energy for uniform curing of each photo-curable lens.

Regarding Claim 3, Martin et al. ('845) in view of Ono further teaches the UV lamp being a mercury lamp (Martin, Figure 3, column 9, lines 5 and 6).

Regarding Claim 6, Martin et al. ('845) in view of Ono teaches the UV illuminating device comprising a mercury lamp as a UV light source 44 having emission spectrum of UV intensity at 320-390 nm (Martin, Figure 3, column 9, lines 5-8). However, Martin et al. ('845) in view of Ono does not teach the UV lamp operating at the claimed emission spectrum 280-360.

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono for its operation at the emission spectrum of 280-360, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding Claim 17, Martin et al. ('845) in view of Ono teaches the UV illuminating device comprising;

- a plurality of optical fibers 7 each providing a level of UV illumination to one casting mould 2 sufficient for polymerization of material throughout the casting mould (Ono, Figure 1, English translated abstract).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP 61-261009) as applied to Claim 3 above, and further in view of Biller et al. (U.S. Patent No. 5,824,373).

Martin et al. ('845) in view of Ono discloses the UV illuminating device comprising a mercury lamp as a UV light source. However, neither combined nor individual teaching of Martin et al. ('845) and Ono teaches the mercury lamp being a doped mercury lamp.

On the other hand, Biller et al. ('373) discloses a radiation curing of powder coating with the UV radiation source (abstract, column 22, lines 17-20 and lines 29-33). Biller et al. ('373) additionally teaches the uses of doped mercury lamps (column 22, lines 29-33). This type of mercury lamps doped with metal halide is well known in the art for photo-polymerization process.

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono by providing a doped mercury lamp for furnishing UV radiation energy as taught by Biller et al. ('373) for advantages and benefits including enhancement of particular wavelengths of the radiation source and its long operational life.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP 61-261009) as applied to Claim 1 above, and further in view Nath (U.S. Patent No. 3,995,934).

Martin et al. ('845) in view of Ono teaches the UV illuminating device comprising a mercury lamp as a UV light source coupled to optical fibers. However, neither combined nor individual teaching of Martin et al. ('845) and Ono specifically discloses the optical fibers being liquid optical fibers.

On the other hand, Nath ('934) discloses a flexible liquid light guide –optical fiber 10- (Figures 1 and 2) applied for light, including UV radiation, transmission, filled with light transmitting fluid 20 (Figures 1 and 2, column 2, lines 10 and 11).

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view Ono by providing liquid optical fibers for light transmission as taught by Nath ('934) for advantages and benefits of efficient UV – high powered light transmission for long period of time..

7. Claims 7,8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP

61-261009) as applied to claim 1 above, and further in view Kennedy et al. (U.S. Patent No. 5,521,392).

Regarding claims 7,8 and 12-14, Martin et al. ('845) in view of Ono teaches the UV illuminating device comprising a remotely generated polymerization radiation and routed via fiber optic system (Figure 3, column 8, lines 55-59). However, neither combined nor individual teaching of Martin et al. ('845) and Ono teaches the detailed of the disclosed UV radiation system including:

- an UV radiation measuring unit;
- a sensor measuring the radiation intensity of the UV lamp, and being connected to the UV radiation regulating unit;
- a diaphragm positioned between the optical fiber and the UV lamp of the device;
- the diaphragm further including an aperture being adjusted by a stepping motor unit; and
- the aperture of the diaphragm being controlled in accordance of the measurement of intensity of the emitted UV radiation.

On the other hand, regarding claims 7,8 and 12-14, Kennedy et al. ('392) discloses a light curing system (Figure 2) with a control module 20 operationally coupled to the components including:

- a sensor 18 (Figures 1 and 2, column 3, lines 1-3, and column 5, lines 1-4) measuring the radiation intensity of the UV lamp 12 (Figures 1 and 2, column 3, lines 1-3; and column 4, lines 54 and 55), and being connected

- to the UV radiation regulating unit 20 (Figures 1 and 2, column 3, lines 1-3; and column 5, lines 1-4);
- an UV radiation measuring unit 14 (Figures 1 and 2, column 3, lines 1 and 2, and column 4, lines 27, 28 and 36-39);
  - a diaphragm 54 (Figures 1 and 2, column 4, line 28) positioned between the optical fiber 16 (Figures 1 and 2, column 3, line 3) and the UV lamp 12 of the device;
  - the diaphragm 54 further including an aperture (Not shown) being adjusted by a solenoid 60 (Figure 2, column 4, lines 29-32), functionally equivalent as a stepping motor unit 58 (Figure 2, column 4, lines 29-32); and
  - the aperture of the diaphragm 54 being controlled in accordance of the measurement of intensity of the emitted UV radiation (Figure 2, column 4, lines 36-41).

Thus, regarding claims 7, 8 and 12-14, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono by providing a control module as taught by Kennedy et al. ('392) for advantages and benefits of producing a preselected amount and intensity of UV light energy needed for photo curing of polymerizable material.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP 61-



261009) as applied to Claim 1 above, and further in view Gonser (US Patent No. 4,385,344).

Regarding Claim 9, neither combined nor individual teaching of Martin et al. ('845) in view of Ono discloses a quartz rod positioned between the UV lamp and the light admission area of each of the optical fibers.

On the other hand, Gonser ('344) teaches a light apparatus for curing a photo curable polymer, and the light apparatus including a quartz rod 55 positioned between the UV lamp and the light admission area of each of the optical fibers (Figure 1, column 3, lines 10-13).

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono by providing a quartz rod as taught by Gonser ('344) for transmitting light uniformly and at low temperature providing operational efficiency and long life for fiber optics.

Regarding Claim 10, Martin et al. ('845) in view of Ono, and further in view of Gonser ('344) teaches the light apparatus (Figure 1) further including a cut-on filter 51 positioned between the quartz rod and the UV lamp 45. However, neither combined nor individual teaching of Martin et al. ('845), Ono and Gonser ('344) discloses the claimed positioning of the cut-on filter disposed between the quartz rod and the optical fibers.

On the other hand, optically and operationally the positioning of the cut-on filter as taught by Gonser ('344) is equivalent.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the light apparatus of Martin et al. ('845) in view of Ono, and further

in view of Gonser ('344) by relocating the cut-on filter, since it has been held that rearranging parts of an invention involves only routine skill in the art.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (US Patent No. 6,220,845) in view of Ono (Japanese Pattern No.: JP 61-261009) as applied to Claim 1 above, and further in view Soporì (US Patent No. 5,217,285).

Neither combined nor individual teaching of Martin et al. ('845) in view of Ono discloses a UV condenser mounted between the optical fiber and upper mould half.

On the other hand, Soporì ('285) teaches an illuminating apparatus emitting UV light, and comprising a condenser 30 (Figure 1, column 6, line 68; column 7, lines 1 and 2; and column 9, lines 35-39) positioned between the optical fiber 48 (Figure 1, column 9, lines 29 and 30) and a surface receiving UV light 42 (Figure 1).

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono by providing a condenser as taught by Soporì ('285) to collimate UV light for benefits and advantages of uniform distribution of UV light needed for even curing of the lens.

### ***Response to Amendment***

10. Applicant's arguments filed on February 28, 2005 with respect to the 35 U.S.C. 103(a) rejections of claims 1,3-10 and 12-17 have been fully considered but they are not persuasive.

Argument:                      Regarding claims 1,5,7,8, 12-14 and 16, Ono (Japanese Pattern No.: JP 61-261009), hereafter referred as Ono, is not

analogous prior art and not properly considered when determining the obviousness of the claimed invention.

Response: The process and apparatus disclosed by Ono relates to photo-polymerization (curing) of resin, whereas the instant application is also directly addressing curing of photo curable resin used contact lens manufacture. Therefore, Ono is an analogous art.

Argument: Ono is not in the same field of endeavor (contact lens manufacture) nor its reasonably pertinent.

Response: Ono discloses a system providing UV light rays through optic fibers each spot radiating for photo-curing of resin in a needle base. On the other hand, the instant application requires UV light rays through optic fibers each spot radiating for photo-curing of resin applicable for contact lens manufacture. Therefore, the teaching of Ono is the same field of endeavor. Further Ono's teaching is reasonably pertinent to the particular problem of providing UV light rays through optic fibers to a photo-curable resin article.

Argument: There is no motivation or suggestion to combine Ono with Martin et al. ('845).

Response: As detailed in section 4 of this office action mailed on November 30, 2004, and detailed above in section 4, Martin et al. ('845) discloses a UV illuminating device (Figure 3) comprising:

a ultraviolet (UV) lamp(not shown, column 8, lines 30 and 31) remotely generating radiation, and the generated radiation being routed to the clamped mold halves and polymerizable material via fiber optics (column 8, lines 55-59) capable – intended use - of being linked to one casting mould.

However, Martin et al. ('845) does not specifically teach the ultraviolet (UV) lamp being surrounded by a plurality of optical fibers.

On the other hand, Ono discloses a UV light-emitting lamp 8 including a light emitting part surrounded by fiber optics 7 (Figure 1, English translated abstract)

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the optic –bases UV light system of Martin et al. ('845) by providing optic fibers surrounding the UV lamp as taught by Ono for supplying equal share of the generated radiation energy for uniform curing of each photo-curable lens.

Argument: Ono patent does not sufficiently teach “ a plurality of fibers each being linked to a casting mould.

Response: As detailed in section 4 of this office action mailed on November 30, 2004, and detailed above in section 4, the teachings

of Martine ('845) and Ono in combination teaches a plurality of optic fibers each linked to the casting mould.

The rejections are based on combination of references. Therefore, The references supporting the rejection based on obviousness must not be considered individually.

Argument: Regarding Claim 6, Ono does not teach the UV lamp operating at the claimed spectrum 280-360 nm. And further, reduces the intensity of the light. Therefore there is no teaching or suggestion to combine these references.

Response: As detailed in section 4 of this office action mailed on November 30, 2004, and detailed above in section 4, Martin et al. ('845) in view of Ono teaches the UV illuminating device comprising a mercury lamp as a UV light source 44 having emission spectrum of UV intensity at 320-390 nm. However, Martin et al. ('845) in view of Ono does not teach the UV lamp operating at the claimed emission spectrum 280-360.

It would have been an obvious to one having ordinary skill in the art at the time of invention to modify the UV illumination system of Martin et al. ('845) in view of Ono for its operation at the emission spectrum of 280-360, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

The rejections are based on combination of references.  
Therefore, The references supporting the rejection based on obviousness must not be considered individually.

Argument: Regarding Claim 4, Biller et al. ('373) is non-analogous art, as its teaching of a doped mercury lamp is used for radiation-curing of powder-coating on the wood. Such a use is outside the inventor's invention field of endeavor. Further using hindsight to combine references is not permissible.

Response: Use of doped mercury lamp, photo-curing polymerizable resin or photo-polymerizable powder, does not make the invention patentable distinct. Because of its operational capability and structural features doped mercury lamp taught by Biller ('373), the reference Biller ('373) is an analogous reference for UV radiation usable for photo-curing process.

It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. The above indicated rejections have taken into account only the knowledge disclosed by the prior art detailed above, and which was within the level of ordinary skill at the time the claimed invention was made.

Argument: Regarding Claims 9 and 10, the combination of Martin et al. ('845), Ono and Gonser ('344) would not have been obvious to one

of skill in the art. There is no teaching or suggestion to combine these references.

Response: The apparatus disclosed by Gonser ('344) relates to, and used for photo-polymerization (curing) of resin in application in dentistry, whereas the instant application is also directly addressing curing of photo curable resin used for contact lens manufacture. The applications claimed invention in instant application, and that taught by Gonser ('344) each is based on photo-curing of a polymerizable resin. Therefore, Gonser ('344) an analogous art, and it is combinable with Ono and Martin et al ('845).

Argument: Regarding Claim 9, Gonser ('344) does not teach a quartz rod positioned between the UV lamp and the light admission area.

Response: As detailed in section 4 of this office action mailed on November 30, 2004, and detailed above in section 4, Gonser ('344) teaches a light apparatus for curing a photo curable polymer, and the light apparatus including a quartz rod 55 positioned between the UV lamp and the light admission area of each of the optical fibers (Figure 1, column 3, lines 10-13).

Gonser ('344) identifies the element 55 as an optical fiber light guide. the prior art has commonly identified the optic fiber light guide as an optical fiber, quartz rod, light guide or merely light transmitting rod.

Argument: Regarding Claim 10, the current placement of the cut-out filter, as taught by Gonser ('344), can not be easily rearranged as this would involve further positioning of other components. Thus, merely repositioning of engineering components is not obvious and easy solution. Further, repositioning of the components is not feasible as the UV lamp of the present invention reaches up to 800 degrees C, whereas Gonser's lamp reaches temperatures around 200 degrees C.

Response: "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art. Combining the teachings of references does not involve an ability to combine their specific structures.

The combination of teachings of Martin et al. ('845), Ono and Gonser ('344) does not change the principle of operating parameters of the primary reference Martine et al. (845). Gonser ('344), included in the argument, is the secondary reference.

Argument: Regarding Claim 15, there is no suggestion or teaching to combine Sopori (US Patent No.; 5,217,285) with Ono or Martine et al. ('845).



Response: The process disclosed by Martine et al. ('845) in view of Ono relates to photo-polymerization (curing) of resin. The apparatus required for the process, and disclosed by Martine et al. ('845) in view of Ono includes a UV lamp providing UV light rays through optic fibers to resin moulds for photo-curing of contact lens. Thus, the basic requirement is the optic-fiber based light furnishing system. Soporì ('285) teaches an optic-fiber based light furnishing system including a condenser mounted between the optic fiber and the point of application.

Therefore, as discussed above, there is teaching allowing combination of Soporì ('285) with Ono or Martine et al. ('845).

For further detail, please refer to section 9 of the office action mailed on November 30, 2004, and detailed above in section 9.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S. Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

5/13/05

  
Stephen Husar  
Primary Examiner